



**HB0180 Juveniles – Sexting**  
Presented to the Honorable Luke Clippinger and  
Members of the House Judiciary Committee  
January 21, 2021 1:30 p.m.

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**POSITION: INFORMATION ONLY**

Our organization is an advocate for reproductive health, rights, and justice. We work to protect every person's freedom to decide if, when, and how to build their families. This freedom relies on respecting the sexual agency and bodily autonomy of every individual. Every person has the right to decide where, when, how, and with whom they have sex. Accordingly, we support the criminalization of coercive and/or nonconsensual sexual interactions. However, we are concerned with the conflation of youth sexting with child pornography.

Sexting among minors has become an expression of affection or flirtation. Studies published in the *Journal of the American Academy of Pediatrics* claim that these are the two main reasons behind the sharing of digital sexual images. Teens use sexting as a way to show intimacy, often times without actually being physically intimate.<sup>i</sup> Consensual sexting between minors reflects larger issues, including bodily autonomy and sexual expression. However, sexting can have unintended consequences, such as the dissemination of the image or message to those the creator did not intend.

By criminalizing consensual sexual contact like this between minors, such laws teach teens that consensual sexual intimacy is wrong and punishable. This shame creates cultures where teens feel bullied for engaging in such sexual expression, and prevents them from reaching out to adults to ask about how to safely engage in online or in-person sexual behavior.

Prohibiting minors who can legally consent to sex from creating consensual sexual images or content does not protect them, but removes much of their sexual autonomy. Although not all minors know whether they are permitted to engage in all areas of sexual conduct with the same level of protection under the law as adults, they do believe they are guaranteed privacy in areas of sexual matters, such as contraceptive access as well as STI prevention or treatment. Teens feel they have the right to decide with whom they engage in sexual activities, and the right to consent to sexual activities if they so choose. Punishing their decisions does not act as a deterrent, but creates stigma and removes their bodily autonomy.<sup>ii</sup> Teens fear the removal of their ability to choose what happens to their bodies by outside influences. The threat of criminal prosecution of pictures of oneself means teens have lost the ability to voluntarily express themselves and control their own bodies. The aim of child pornography laws should not be to punish those consensually engaging in activities related to sexual expression.

Although HB0180 seeks to assist youth - who have created images of themselves and are the ones voluntarily and consensually transmitting the images to others - by forming the right to an affirmative defense, it is not enough; as it just creates a mitigating factor instead of removing this type of sexual expression from the realm of possible criminal charges. NARAL Pro-Choice Maryland urges members of the House Judiciary Committee to meet with advocates dedicated to the health and safety of youth to engage in further exploration of this issue. Thank you for your time and consideration.

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<sup>i</sup> Setty, E. A Rights-Based Approach to Youth Sexting: Challenging Risk, Shame, and the Denial of Rights to Bodily and Sexual Expression Within Youth Digital Sexual Culture. *Int Journal of Bullying Prevention* 1, 298-311 (2019). <https://doi.org/10.1007/s42380-019-00050-6>

<sup>ii</sup> Victor C. Strasburger, Harry Zimmerman, Jeff R. Temple, Sheri Madigan. Teenagers, Sexting, and the Law. *Pediatrics* 143, 2018-3183 (2019).